

MN Department of Human Services

Social Services Manual

Refugee Children

XIII-3400

Not revised

Refugee Children

XIII-3400

Introduction

XIII-3410

Authority

XIII-3411

1. Title IV, chapter 2 (Immigration and Nationality Act added by Section 311(a)(2) of the Refugee Act of 1980, Public Law 96-212, and amended by the Refugee Assistance Amendments of 1982, P.L. 97-363).
2. 45 CFR, part 400 (Refugee Resettlement Program).

Definitions

XIII-3412

1. **Refugee:** A person unable to return to his or her country because of persecution or a well founded fear of persecution, who is determined by the Immigration and Naturalization Service (INS) to meet the definition of a refugee, and who is admitted to the United States under section 207 of the Immigration and Nationality Act.
2. **Refugee Children:** For purposes of this section, refugee children are those children who are refugees and are from intact families or who are separated from their families but are not classified as refugee unaccompanied minors.
3. **Refugee Unaccompanied Minor:** A person who:
 - a. Is under 18 years of age (or 21 pursuant to state law and rule on benefits to children who were in foster care at age 18);
 - b. Entered the United States unaccompanied by and not destined to a parent or close nonparental adult relative who is willing and able to care for the child or to an adult with a clear and court verifiable claim to custody of the minor; and
 - c. Has no parent in the United States.

Adapted from 45 CFR 400.111

Technical Assistance

XIII-3413

The Office of Refugee Resettlement (ORR) provides program goals, priorities, standards, guidelines, report forms and technical assistance to the State Agency in administration or the Refugee Unaccompanied Minor Program.

Within the Minnesota Department of Human Services the Refugee Children Services Consultant is available to assist local social services agencies in implementing the refugee unaccompanied minor program. All requests for certification or reclassification or approval of additional services for refugee unaccompanied minors shall be submitted through the Refugee Children Services Consultant as follows:

MN Department of Human Services Social Services Manual

Refugee Children

XIII-3400

Not revised

Children's Services Division
Department of Human Services
444 Lafayette Road
Third Floor
St. Paul, Minnesota 55155-3832

Additional information on refugees is available in SSM XIII-7000.

Child Welfare Services for Refugee Children

XIII-3420

Refugee children and refugee unaccompanied minors are eligible for essentially the same child welfare services as other children in Minnesota. The population groups differ in the funding sources and length of funding available to them (see SSM XIII-3470).

Refugee Children

XIII-3421

The Department of Human Services and local social services agencies shall provide refugee children with the same child welfare services and benefits to the same extent as are provided to other children of the same age in the State as designated in the Title IV-B Plan (see SSM VII-5000).

45 CFR 400.112 (a)

The services shall be provided in accordance with existing state child welfare standards, practices, and procedures.

45 CFR 400.112 (b)

Refugee Unaccompanied Minors

XIII-3422

The Department of Human Services and local social services agencies shall provide refugee unaccompanied minors at a minimum with the same range of child welfare benefits and services available in foster care to other children (see SSM XV-6000).

Allowable benefits and services may include foster care maintenance (room, board, and clothing) payments, medical assistance, support services, services identified in the state IV-B and IV-E plans, services permissible under Title XX of the Social Security Act and expenditures incurred in establishing legal responsibility.

Additional services may be provided for the minor if the Director of the Office of Refugee Resettlement determines such services are necessary for a particular minor and provides a written approval of such determination.

45 CFR 400.116 (a) and (b)

Program Goal for Refugee Unaccompanied Minors

XIII-3423

The goals of the Refugee/Unaccompanied Minor Program are:

MN Department of Human Services

Social Services Manual

Refugee Children

XIII-3400

Not revised

1. To reunify Refugee Unaccompanied Minors with their parents or, within the context of state child welfare practice, with nonparental adult relatives.
2. To prepare Refugee Unaccompanied Minors with appropriate independent living skills to enter adulthood and to achieve economic and social self-sufficiency through provision of child welfare services in a culturally sensitive manner.

Refugee Unaccompanied Minor Eligibility

XIII-3430

Determination

XIII-3431

A refugee unaccompanied minor is:

1. A person under 18 years of age (or 21 pursuant to State law and rule on benefits to children who were in foster care at age 18); (Minnesota Statutes, section 256.01, subdivision 2; 256.82, subdivision 3; 260.40; 393.07)
2. Who has been lawfully admitted to the United States with refugee status;
3. Who entered the United States unaccompanied by and not destined to a parent or close nonparental adult relative;
4. Who does not have any parent living at any time in the United States.

No child may be considered an "unaccompanied minor" for the purpose of this program unless the child was so identified by the United States Immigration and Naturalization Service at the time of the child's entry into the United States or a reclassification of the child as an unaccompanied minor" is approved by the Director of the Office of Refugee Resettlement.

Exception: Those children enrolled in the program under the provisions of P.L. 95.549, 1979, and who have been reported to the Office of Refugee Resettlement prior to April 30, 1986, may continue in the program.

45 CFR 400.111

Reclassification Procedures

XIII-3432

The ORR-Policy and Analysis Division has determined that a refugee minor may be reclassified as an unaccompanied minor only if all of the following conditions are met:

1. The child does not have and has not had at any time since the child's arrival in the United States, a parent living in the United States;
2. A nonparental relative or nonrelated adult has never had legal custody of the child in the United States;
3. With respect to a child who entered the United States accompanied by a nonparental relative or nonrelated adult, or who entered the United States for the purpose of joining a

MN Department of Human Services

Social Services Manual

Refugee Children

XIII-3400

Not revised

nonparental relative or nonrelated adult, the child is not living in the home of such relative or adult;

4. An appropriate court has placed legal responsibility for the child with the local public child welfare agency or with a licensed nonpublic agency which is under contract to provide services to refugee minors, thereby establishing the child as an unaccompanied minor; and
5. The State has reported the child to the Office of Refugee Resettlement as an accompanied minor and as part of the official state program for unaccompanied minors.

Duration of Eligibility

XIII-3433

An unaccompanied refugee minor continues to meet the definition "unaccompanied minor" until the minor:

1. Is reunited with a parent;
2. Is united with a nonparental adult (relative or nonrelative) willing and able to care for the child to whom legal custody and/or guardianship is granted under state law; or
3. Attains 18 years of age or such higher age as the state Title IV-B plan describes for the availability of child welfare services to any other child in the state; or

NOTES:

1. Minnesota law and rule provides for benefits until age 21 for minors who were in foster care at age 18 at the request of the minors. (See SSM XV-6728 for requirements.)

(Part 9560.0660)

2. Upon the request of a person between the age of 18 and 21 who is in foster care at the time of the request the local social services agency shall develop in conjunction with the foster child and other appropriate parties, a specific plan related to that person's educational, vocational, social or maturation needs and shall assure that any maintenance or counseling benefits are tied to that plan. Principles to be applied in developing such plan may include the following:
 - a. That the minor's plan require provision of state foster care benefits;
 - b. That the plan be made for only one year at a time with review of the plan at least at six month intervals; and
 - c. That any plan involving a financial commitment from the agency consider the child's income and the availability of grants. Each plan shall be reviewed prior to its implementation, and any variance from an approved plan must have prior authorization by the agency.
4. Is adopted; or

MN Department of Human Services Social Services Manual

Refugee Children

XIII-3400

Not revised

5. Becomes a United States citizen.

NOTE: It is reasonable to terminate unaccompanied minor benefits and services:

- a. Up to 90 days after the date of the arrival of the parent in the United States; or
- b. Up to 90 days after the agency has knowledge of a legally responsible nonparental adult relative or other legal guardian, residing in the United States.

Availability of Title XIX

XIII-3434

Refugee children who meet the eligibility requirements to be a RUM are also eligible for Medical Assistance. A medical assistance application must be filed on behalf of the child.

Note: Refugee children who meet Title IV-E requirements are eligible for IV-E funding. Federal funding through the ORR is available to reimburse the non IV-E share of the maintenance cost for the child's first 24 months in the United States.

Licensing

XIII-3435

Rule 1 governs the licensure of homes for placement of children under the age of 18 years. When a child in a Rule 1 foster home achieves his/her eighteenth birthday and is still a full-time student, the Department of Human Services/Licensing Division will grant a waiver, requested by the foster parent(s), to allow continuation of that placement. See request form for Foster Care Adult in a Rule 1 home.

The license holder must submit a written request for a waiver to the local social services agency or the private child placement agency. The agency must forward the written request for a waiver accompanied by the agency's recommendations to the state Licensing Division.

The request for a waiver must include:

1. A statement attesting to the child's student status; and
2. The projected length of time for which the waiver is requested.

Provision of Care and Services

XIII-3440

Local social services agencies may provide care and services to an unaccompanied minor directly or through arrangements with a public or private child welfare agency approved or licensed under state law. If the local agency contracts for care and services, it shall ensure that required reports are reviewed and take appropriate action when events occur that may impact on a minor's best interests.

Adapted from 45 CFR 400.117

Case Planning

XIII-3441

At a minimum the case plan must address the following elements:

MN Department of Human Services Social Services Manual

Refugee Children

XIII-3400

Not revised

1. Family reunification; (See SSM XIII-3461 for limitations on family reunification.)
2. Appropriateness of placement with respect to the child's best interests and special needs; if possible the child should be placed in areas which have access to existing refugee community or refugee resettlement agencies which are able to assist in family reunification;
3. Preservation of the child's ethnic and religious heritage; (Minnesota Minority Heritage Act);
4. Health screening and treatment, including provision of all necessary medical and dental treatment;
5. Orientation, testing, and counseling to facilitate adjustment of the child to the American culture; and
6. Preparation for participation in American society with special emphasis on English language instruction and occupational as well as cultural training as necessary to facilitate the child's social integration and to prepare the child for independent living and economic self-sufficiency.

The local social services agency shall review the continuing appropriateness of each minor's living arrangement and services no less than every six months.

Adapted from 45 CFR 400.118

Legal Responsibility

XIII-3450

Establishing Legal Responsibility

XIII-3451

Legal responsibility shall be established for unaccompanied minors to ensure that each unaccompanied minor receives the full range of assistance, care and services to which any child in the State is entitled and to designate a legal authority to act in place of the child's absent parent(s).

The procedures for establishing legal responsibility are as follows:

1. The local social services agency in the county in which the unaccompanied minor resides shall initiate procedures for establishing legal responsibility (custody or guardianship) for the minor under state law through the county court of the minor's residence within 30 days after the minor arrives in the county. The judge usually orders custody to the local social services agency, or the licensed child placement agency of the Refugee Unaccompanied Minor Program for placement activities.
 - a. The court may grant custody up to twelve months.
 - b. The court must hold a dispositional hearing before the current order expires in order to continue for placement before a twelve month period ended.

MN Department of Human Services

Social Services Manual

Refugee Children

XIII-3400

Not revised

- c. The local social services agency or the licensed child placement agency must request a hearing on a timely basis in order to ensure compliance with the law and to maintain the placement.

Adapted from 45 CFR 400.115 (a)

NOTES:

1. Legal custody of the minor is assigned to the local social services agency or private agency.
2. In the RUM program the court is petitioned for legal custody of the minor rather than guardianship to avoid termination of parental rights and encourage family reunification; and
3. Legal action for assignment of legal custody should include a request for legal authority to place the minor in foster care and to consent to medical care.
4. When establishing legal responsibility (including legal custody and/or guardianship) the minor's natural parents shall not be contacted in their native country because of potential danger to the parent.

Adapted from 45 CFR 400.115 (b)

3. Unaccompanied minors are not generally eligible for adoption since family reunification is the objective of the program. In certain rare cases adoption may be permitted pursuant to the state's adoption laws (see SSM XIV-1000) provided a court finds that:
 - a. Adoption would be in the best interest of the child; and
 - b. There is termination of parental rights as determined by state court.

The child's status as an unaccompanied minor terminates when adoption occurs.

NOTE: Adoption may be appropriate in cases where the minor's parents are dead or are missing and presumed dead.

Adapted from 45 CFR 400.115 (c)

Inter-County Transfer of Responsibility

XIII-3452

In an inter-county cooperative agreement dated January 1981, the following Inter-County Agreement of Legal and Financial Responsibility was developed:

If an unaccompanied minor moves to another county before legal custody is established, the first county of residence is financially responsible for a period of two months. If the child moves in the middle of the month, the first county is responsible for the remainder of that month, plus two months. At the end of the time, the county to which the child has moved is to have secured custody and to assume financial responsibility.

MN Department of Human Services Social Services Manual

Refugee Children

XIII-3400

Not revised

If an unaccompanied minor moves to another county after legal custody has been established in the first county, the first county is responsible for that child for a period of six months from the date the second county was notified of the child's placement in that county. The first county then requests a transfer of legal jurisdiction to the court in the second county. When that occurs, the second county has both legal and financial responsibility.

NOTE: Since the RUM program is 100 percent federally funded, this policy is intended to facilitate movement of refugees without interruption in service rather than to distribute financial responsibility.

Interstate Movement

XIII-3453

The Interstate placement system provides orderly and uniform policy and procedures whereby the responsible parties in two different states determine that a proposed placement of a child from one state into another state is in the child's best interest. This placement also establishes the continuing responsibility and jurisdiction of the parties.

All licensed child placement, local and/or private agencies must follow the existing procedures that govern the movement of the nonrefugee foster care and apply them to the RUM program.

Minn. Stat. 257.40; 45 CFR 400.119

Funding

XIII-3460

Funding for this program has been and continues to be the federal Office of Refugee Resettlement (ORR) in two separate categories:

1. Refugee child welfare services.

Children who have arrived in this country with relatives may receive services funded up through a 31month period as of March 1, 1986, beginning with the first month in which such refugee child is in the United States. If the child is eligible for Title IV-E, the county must use the IV-E program and ORR will reimburse the state and county share. The Office of Refugee Resettlement will reimburse the state and county share of child welfare services including foster care maintenance payments, health care and necessary administrative costs.

NOTE: The IV-E program must be used if the child is eligible for this program. (See SSM II-4000)

2. Refugee Unaccompanied Minor Program.

ORR will reimburse on a 100 percent basis for child welfare services to Refugee Unaccompanied Minors including the foster care maintenance payment, allowable additional services, health care and reasonable administrative costs until the child reaches 18 years of age (or until age 21 as appropriate).

1. ORR funds may be used for a RUM minor parent in placement with a child.

MN Department of Human Services

Social Services Manual

Refugee Children

XIII-3400

Not revised

2. ORR funds may be used for the minor parent if all RUM criteria are met. This funding cannot be used for a minor parent's child if the child obtained United States citizenship and the child has not been removed from the parent.
3. All costs will be reimbursed at 100 percent, except health care costs. ORR will reimburse the non-federal share of health care costs provided to an eligible RUM.

Cost Effectiveness

XIII-3461

1. Program costs for refugee children should be consistent with costs for other nonrefugee children in care in the state, except where consideration given to unique cultural, language and psychological needs of the refugee children mandate different costs.
2. To assure effective staff utilization and to provide a sufficiently broad range of services and types of care, at least 30 children are participating in private, voluntary provider-operated local programs.
3. The local/private agency should also attempt to access non-ORR funded resources (i.e., the Job Training Partnership Act, Job Corps, vocational educational scholarships to preparatory schools and colleges).

Reporting Requirements-3740

The local agencies shall submit the following reports on each unaccompanied refugee minor to the Department of Human Services, Social Services Division:

1. An initial report (ORR-3) within 30 days of the date of the minor's placement in the State. (See SSM XIII-3491.)
2. A progress report (ORR-4) every 12 months beginning with 12 months from the date of the initial report. (See SSM XIII-3492)
3. A change of status report (ORR-3) within 60 days of the date that:
 - a. The minor's placement is changed; or
 - b. Legal custody is transferred. (See SSM XIII-3491)
4. A final report (ORR-3) within 60 days of the date the minor is:
 - a. Reunited with a parent,
 - b. United with an adult other than a parent; or
 - c. Emancipated.

Adapted from 45 CFR 400.118

MN Department of Human Services Social Services Manual

Refugee Children

XIII-3400

Not revised

Forms

XIII-3840

1. Refugee and Entrant Unaccompanied Minor Placement Report (ORR-3) (See SSM XIII-3481)
2. Refugee and Entrant Unaccompanied Minor Progress Report (ORR-4) (See SSM XIII-3482)
3. Interstate Compact Application Request to Place Child (DHS 1542a) (See SSM XIII-3483)
4. Interstate Compact Report On Child's Placement Date or Replacement Status (DHS 1542b) (See SSM XIII-3484)
5. Case Plan (See SSM XIII-3485)
6. Administrative Review (See SSM XIII-3486)
7. Foster Care Adult in Rule 1 Home (See SSM XIII-3487)

Refugee and Entrant Unaccompanied Minor Placement Report

XIII-3481

See SSM XIII-3480

This form may be reproduced as necessary.

Refugee and Unaccompanied Minor Progress Report

XIII-3482

(See SSM XIII-3480)

This form may be reproduced as necessary.

Interstate Compact Application Request to Place Child

XIII-3483

Interstate Compact Application Report to Place Child (DHS 1542a)

Interstate Compact Report On Child's Placement Date or Replacement Status

XIII-3484

Interstate Compact Report On Child's Placement Date or Replacement Status (DHS 1542b)

Case Plan

XIII-3485

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Administrative Review

XIII-3486

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Foster Care Adult in Rule 1 Home

XIII-3487

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